

§ 960.6 Review procedures for license applications.

The following procedures are consistent and have been harmonized with those procedures, including time lines, described in the Fact Sheet, at Appendix 2 of this part, which governs in lieu of this section and §§ 960.7 and 960.8 with respect to the process for reaching determinations of conditions necessary to meet national security, international obligations and foreign policy and which is outside the scope of the regulations in this part.

(a) The Assistant Administrator shall, within three (3) working days of receipt of an application, forward a copy of the application to the Department of Defense, the Department of State, the Department of the Interior, and any other Federal agencies determined to have a substantial interest in the license application. The Assistant Administrator shall advise such agencies of the deadline prescribed by paragraph (b) of this section to require additional information from the applicant. The Assistant Administrator shall make a determination on the application, in accordance with the Act and section 960.1(b), within 120 days of its receipt. If a determination has not been made within 120 days, the Assistant Administrator shall inform the applicant of any pending issues and any action required to resolve them.

(b) The reviewing agencies have thirty (30) days from receipt of application to notify the Assistant Administrator in writing whether the application omits any of the information listed in Appendix 1 of this part or whether additional information may be necessary to complete the application. This notification shall state the specific reasons why the additional information is sought. The Assistant Administrator shall then notify the applicant, in writing, what information is required to complete the license application. The 120-day review period prescribed in Section 201(c) of the Act will be stopped until the Assistant Administrator determines that the license application is complete.

(c) Within thirty (30) days of receipt of a complete application, as determined by the Assistant Administrator, each Federal agency consulted in para-

graph (a) of this section shall recommend, in writing, to the Assistant Administrator approval or disapproval of the application in writing. If a reviewing agency is unable to complete its review in thirty (30) days, it is required to notify NOAA prior to the expiration of the interagency review period, in writing, of the reason for its delay and provide an estimate of additional time necessary to complete the review.

(d) If the license application is denied, the Assistant Administrator shall provide the applicant with written notification along with a concise statement of the facts in the record determined to support the denial. This denial will be considered final agency action twenty-one (21) days after the date the notice was mailed, unless the applicant files an appeal, as provided in § 960.10.

(e) The Assistant Administrator shall terminate the license application review process if:

(1) The application is withdrawn before the decision approving or denying it is issued; or

(2) The applicant, after receiving a request for additional information pursuant to paragraph (b) of this section, does not provide such information within the time stated in the request.

(f) No license shall be granted by the Secretary unless the Secretary determines, in writing, that the applicant will comply with the requirements of the Act, any regulations issued pursuant to the Act, and that the granting of such license and the operation of the license and system by the licensee would be consistent with the national security interest, foreign policy and international obligations of the United States.

§ 960.7 Amendments to licenses.

(a) Prior to taking any of the following actions a licensee must obtain an amendment to the license:

(1) Assignment of any interest in or transfer of the license from one entity to another, renaming, or any change in identity of the license holder;

(2) Change in or transfer of administrative control;

(3) Change of operational control; or

(4) Deviation from orbital characteristics, performance specifications, data collection and exploitation capabilities, operational characteristics identified under Appendix 1. of this part, or any other change in license parameters.

(b) Applications for an amendment to an existing license shall contain all relevant new information and shall be filed at the same address identified in Appendix 1 of this part. Amendment applications shall be filed in accordance with the procedures in § 960.4 and Appendix 1 of this part for original license applications.

(c) The Assistant Administrator shall, within three (3) working days of receipt of an application for amendment, forward a copy of the application to the Department of Defense, the Department of State, the Department of the Interior, and any other Federal agencies determined to have a substantial interest in the application. The Assistant Administrator shall advise such agencies of the deadline prescribed by paragraph (d) of this section to require additional information from the licensee. The Assistant Administrator shall make a determination on the application, in accordance with the Act and § 960.1(b), within 120 days of its receipt. If a determination has not been made within 120 days, the Assistant Administrator shall inform the licensee of any pending issues and any actions necessary to resolve them.

(d) The reviewing agencies have thirty (30) days from receipt of the application for amendment to notify the Assistant Administrator in writing whether the request omits any of the information listed in Appendix 1 of this part or whether additional information may be necessary to complete the request. This notification shall state the specific reasons why the additional information is sought. The Assistant Administrator shall then notify the licensee, in writing, what information is required to complete the application. The 120-day review period prescribed in Section 201(c) of the Act will be stopped until the Assistant Administrator determines that the application request is complete.

(e) Within thirty (30) days of receipt of a complete application for amend-

ment, as determined by the Assistant Administrator, each Federal agency consulted in paragraph (c) of this section shall recommend, in writing, to the Assistant Administrator approval or disapproval of the application. If a reviewing agency is unable to complete its review in thirty (30) days, it is required to notify NOAA prior to the expiration of the interagency review period, in writing, of the reason for its delay and provide an estimate of additional time necessary to complete the review.

(f)(1) When the licensee is seeking an amendment in order to transfer administrative control or change in the participation of the operations of the system to a foreign person or nation, pursuant to paragraph (a)(2) of this section, the licensee must provide the following information:

(i) The identity, residence and citizenship of the foreign person(s) or nation(s) who will acquire control;

(ii) The licensee's proposed plan to ensure that the licensee will protect the operational control of the licensed system from foreign influence and prevent technology transfer that would adversely impact national security, foreign policy or international obligations; and

(iii) Such additional information as the Assistant Administrator may prescribe as necessary or appropriate to protect the national security, foreign policy or international obligations of the United States.

(2) Such an application for amendment will be reviewed to determine whether the foreign person(s) or nation(s) that will exercise administrative control of the licensee will take no action that impairs the national security interests, foreign policy or international obligations of the United States.

(g) If the application for amendment is denied, the Assistant Administrator shall provide the licensee with written notification along with a concise statement of the facts in the record determined to support the denial. This denial will be considered final agency action twenty-one (21) days after the date the notice was mailed, unless the licensee files an appeal, as provided in § 960.10.

(h) The Assistant Administrator shall terminate the application for amendment review process if:

(1) The application is withdrawn before the decision approving or denying it is issued; or

(2) The licensee, after receiving a request for additional information pursuant to paragraph (d) of this section, does not provide such information within the time stated in the request.

§ 960.8 Notification of foreign agreements.

Licensees must notify the Assistant Administrator of any significant or substantial agreement that they intend to enter into with any foreign nation, entity, or consortium, not later than sixty (60) days prior to concluding the agreement.

(a) Upon notification by a licensee, pursuant to § 960.11(b)(5), the Assistant Administrator shall initiate review of the proposed agreement in light of the national security interests, foreign policy and international obligations of the U.S. Government.

(b) The Assistant Administrator shall, within three (3) working days of receipt of a proposed foreign agreement, forward a copy of the foreign agreement to the Department of Defense, the Department of State, the Department of the Interior, and any other Federal agencies determined to have a substantial interest in the foreign agreement. The Assistant Administrator, in consultation with other appropriate agencies, will review the proposed foreign agreement. As part of this review, the Assistant Administrator will ensure that the proposed foreign agreement contains the appropriate provisions to ensure compliance with all requirements concerning national security interests, foreign policy and international obligations under the Act or the licensee's ability to comply with the Act, these regulations and the terms of the license. These requirements include:

(1) The ability to implement, as appropriate, restrictions on the foreign party's acquisition and dissemination of imagery as imposed by the license or by the Secretary;

(2) The obligations of the licensee to provide access to data for the National

Satellite Land Remote Sensing Data Archive; and

(3) The obligations of the licensee to convey to the foreign party the licensee's reporting and recordkeeping requirements and to facilitate any monitoring and compliance activities identified in the license.

(c) Within thirty (30) days of receipt of the proposed agreement, other agencies reviewing the agreement will notify the Assistant Administrator that the proposed agreement sufficiently addresses the requirements in paragraph (b) of this section or identify what changes will need to be made to the agreement to meet these requirements.

(d)(1) Within sixty (60) days of notification by the licensee, if the Assistant Administrator determines that a proposed agreement will impair his or her ability to enforce the Act, or the licensee's ability to comply with the Act, these regulations, or the terms or conditions of the license, the licensee will be notified which terms and conditions of the license are affected and, specifically, how the agreement impairs their enforcement.

(2) The proposed agreement may not be implemented by the licensee until the licensee has been advised by the Assistant Administrator that the provisions of the proposed agreement are acceptable.

(e) The licensee is required to provide NOAA a signed copy of the foreign agreement within thirty (30) days of signature.

(f) Following approval of the agreement, if the factual circumstances surrounding this transaction change, the licensee must notify NOAA within twenty-one (21) days of the change. The licensee's failure to notify NOAA in a timely manner may result in penalties for noncompliance being levied, pursuant to Section 203(a)(3) of the Act.

(g) A licensee seeking to enter into a foreign agreement that would require the modification of the terms of an existing license shall also submit a license amendment request and the proposed foreign agreement shall be considered in the context of the amendment review process.